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# ***“Charting a course for Home Health Agency Licensure”***

***by***

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Charles Moore***



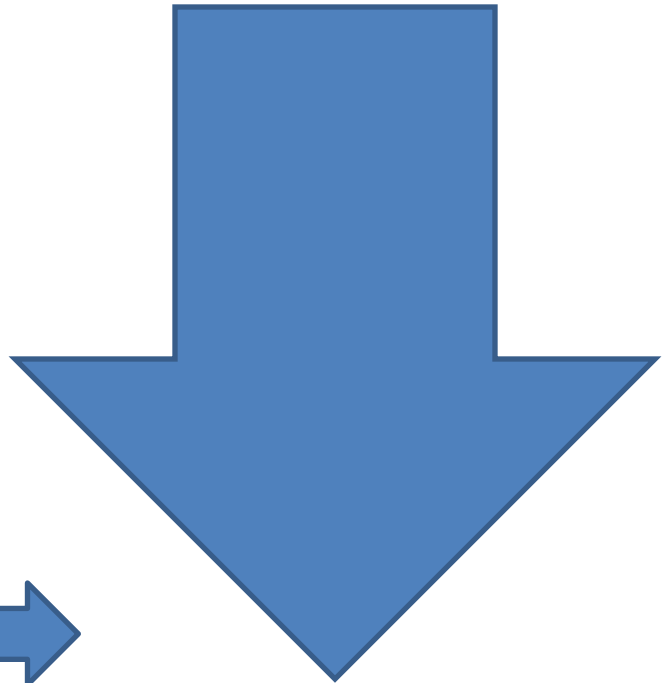
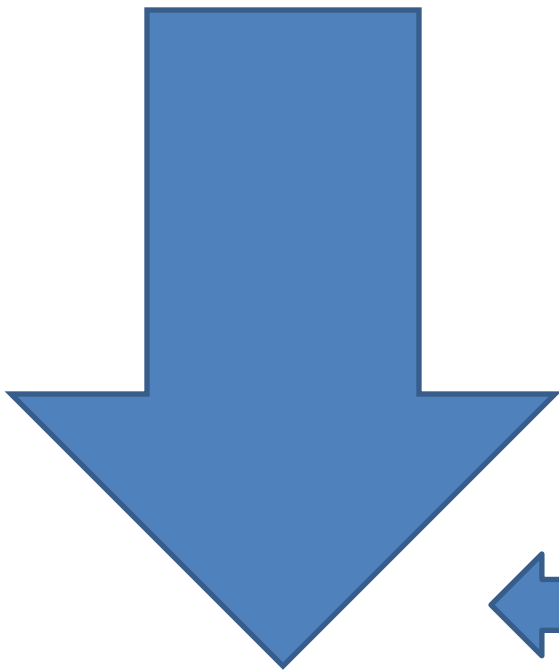
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Decisions about  
becoming a licensed  
home health agency  
(HHA)

Yes, would require a  
HHA License:

No, would not require a  
HHA license:



**We can determine  
what goes on either  
side by using the  
statutes (KSA) as our  
guide.**

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# Chapter 65.--PUBLIC HEALTH Article 51.- -HOME HEALTH AGENCIES

## 65-5101. Definitions.

- As used in this act, (c) "home health services" means any of the following services provided at the residence of the patient on a full-time, part-time or intermittent basis: **Nursing**, .....

Insert **NURSING** as something that would require a HHA license.

Decisions about  
becoming a licensed  
home health agency  
(HHA)

Yes, would require a  
HHA License:

Nursing,  
KSA 65-5101 (c)

No, would not require a  
HHA license:

KSA 65-1113(e) defines a “professional nurse” as a person who is licensed to practice professional nursing as defined in part (1) of subsection (d) of this section.

KSA 65-1113 (d)(1)(2) specifies under the “Practice of Nursing” that the practice of professional nursing as performed by a registered professional nurse or licensed practical nurse for compensation or gratuitously is applicable ..... except as permitted by KSA 65-1124.

KSA 65-1124 indicates specific nursing services are not prohibited from being performed by someone other than an RN or LPN. It states ... (l) the “performance of attendant care services directed by or on behalf of an individual in need of in-home care as the term “attendant care services” and “individual in need of in-home care” are defined under KSA 65-6201 and amendments thereto” ... are not prohibited.

# Chapter 65.--PUBLIC HEALTH Article 51.- -HOME HEALTH AGENCIES

## 65-5101. Definitions.

- As used in this act, (c) "home health services" means any of the following services provided at the residence of the patient on a full-time, part-time or intermittent basis: Nursing, **physical therapy**,  
.....

... add **PHYSICAL  
THERAPY**...

Decisions about  
becoming a licensed  
home health agency  
(HHA)

Yes, would require a  
HHA License:

Nursing,  
**Physical  
Therapy**  
KSA 65-5101 (c )

No, would not require a  
HHA license:

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# Chapter 65.--PUBLIC HEALTH Article 51.- -HOME HEALTH AGENCIES 65-

## 5101. Definitions.

- As used in this act, (c) "home health services" means any of the following services provided at the residence of the patient on a full-time, part-time or intermittent basis: Nursing, physical therapy, speech therapy, nutritional or dietetic consulting, occupational therapy, respiratory therapy, home health aid, attendant care services or medical social service;

... and  
finally....



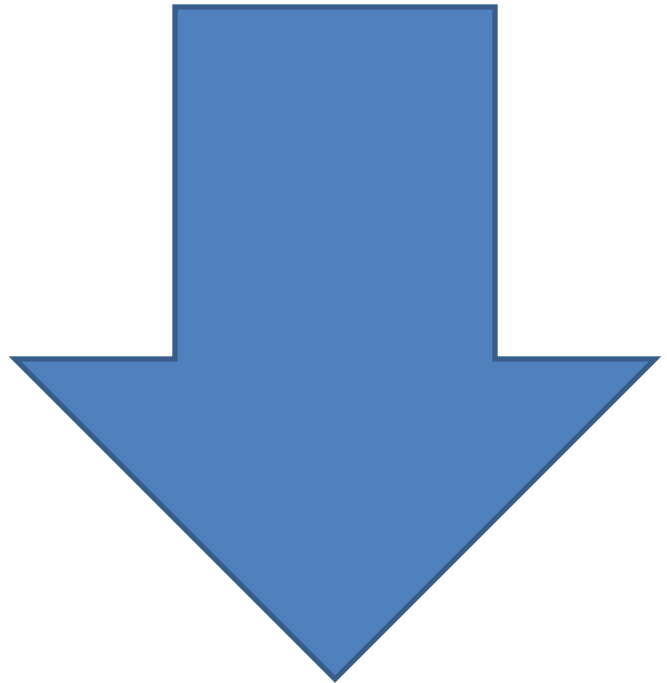
Decisions about  
becoming a licensed  
home health agency  
(HHA)

Yes, would require a  
HHA License:

Nursing,  
Phys Therapy,  
**Speech therapy,**  
**Nutrition/Dietary**  
**Consultation,**  
**Occupational**  
**Therapy,**  
**respiratory**  
**therapy, home**  
**health aide,**  
**attendant care**  
**services or**  
**medical social**  
**services.**

KSA 65-5101 (c )

No, would not require a  
HHA license:



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The following statute 65-5101(b) help us to define what does not need to be licensed:

- "home health agency" means a public or private agency or organization or a subdivision or subunit of such agency or organization that provides for a fee one or more home health services at the residence of a patient but does not include local health departments which are not federally certified home health agencies, durable medical equipment companies which provide home health services by use of specialized equipment, independent living agencies, the department of social and rehabilitation services (SRS) and the department of health and environment (KDHE) ;



Decisions about  
becoming a licensed  
home health agency  
(HHA)

Yes, would require a  
HHA License:

Nursing,  
Phys Therapy,  
Speech therapy,  
Nutrition/Dietary  
Consultation,  
Occupational  
Therapy, respiratory  
therapy, home  
health aide,  
attendant care  
services or medical  
social services.  
KSA 65-5101 (c)

No, would not require a  
HHA license:

Local health  
dept.,  
Durable Med  
Equip.,  
Independent  
living ctr., SRS  
and KDHE  
KSA 65-  
5101(b),

Add these  
categories to  
those not  
needing a HHA  
license from  
KSA 65-5101(b)

# KSA 65-5102

- **No home health agency**, including medicare and medicaid providers, **shall provide** one or more of the home health services specified in subsection (c) of K.S.A. 65-5101 and amendments thereto, **other than attendant care services**, or shall hold itself out as providing one or more of such home health services, **other than attendant care services**, or as a home health agency unless it is licensed in accordance with the provisions of this act.

Decisions about  
becoming a licensed  
home health agency  
(HHA)

Yes, would require a  
HHA License:

Nursing,  
Phys Therapy,  
Speech therapy,  
Nutrition/Dietary  
Consultation,  
Occupational  
Therapy, respiratory  
therapy, home  
health aide,  
Attendant Care  
services or medical  
social services.  
KSA 65-5101 (c )

No, would not require a  
HHA license:

Local health dept.,  
Durable Med Equip.,  
Independent living ctr.,  
SRS,  
KDHE,  
**Add Attendant  
Care Services to  
this side. KSA 65-  
5102**

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Decisions about  
becoming a licensed  
home health agency  
(HHA)

Yes, would require a  
HHA License:

Nursing,  
Phys Therapy,  
Speech therapy,  
Nutrition/Dietary  
Consultation,  
Occupational  
Therapy, respiratory  
therapy, home  
health aide,  
**Attendant Care**  
services or medical  
social services.  
KSA 65-5101 (c)

No, would not require a  
HHA license:

Local health dept.,  
Durable Med Equip.,  
Independent living ctr.,  
SRS,  
KDHE,  
Hospice,  
**Attendant Care**,  
Religious affiliation and  
certain individuals or  
organization excluded.  
KSA 65-5101(b), 5102  
and 5112

You will note that we now have  
**ATTENDANT CARE** on both sides.

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Decisions about  
becoming a licensed  
home health agency  
(HHA)

Yes, would require a  
HHA License:

Nursing,  
Phys Therapy,  
Speech therapy,  
Nutrition/Dietary  
Consultation,  
Occupational  
Therapy, respiratory  
therapy, home  
health aide,  
attendant care  
services or medical  
social services.  
KSA 65-5101 (c)

No, would not require a  
HHA license:

Local health dept.,  
Durable Med Equip.,  
Independent living ctr.,  
SRS,  
KDHE,  
Hospice, Attendant Care,  
Religious affiliation and  
certain individuals or  
organization excluded.  
KSA 65-5101(b), 5102  
and 5112

Yes

Attendant care services  
KSA 65-5101 (c)

No

Attendant care services  
KSA 65-6201

Here is how Attendant Care might appear on our chart.  
It could appear on either side.

For attendant Care Services **only....**

***Providers may choose to be a licensed as a HHA or not.***



# KSA 65-5112. HHA Licensure **is not applicable** to certain individuals or organizations.

- (a) Individuals who personally provide one or more home health services if such persons are **not under the direct control** and doing work for and employed by a home health agency;



## KSA 65-5112. (continued)

- (b) **individuals performing attendant care services** directed by or on behalf of an individual in need of in-home care as the terms "attendant care services" and "individual in need of in-home care" are **defined under K.S.A. 65-6201**, if the individuals performing such services are not under the direct control and doing work for and employed by a home health agency; or ;

## KSA 65-5112. (continued)

- (c) any person or organization conducting a home health agency by and for the or sect for the **adherents of any recognized church or religious denomination** purpose of providing services for the care or treatment of the sick or infirm who **depend upon prayer or spiritual means** for healing in the practice of the religion of such church, religious denomination or sect; or

## KSA 65-5112. (continued)

- (d) **a hospice** which is certified to participate in the Medicare program under 42 code of federal regulations, chapter IV, section 418.1 *et seq.* and amendments thereto and which provides services only to hospice patients.

Decisions about  
becoming a licensed  
home health agency  
(HHA)

Yes, would require a  
HHA License:

Nursing,  
Phys Therapy,  
Speech therapy,  
Nutrition/Dietary  
Consultation,  
Occupational  
Therapy, respiratory  
therapy, home  
health aide,  
attendant care  
services or medical  
social services.  
KSA 65-5101 (c)

No, would not require a  
HHA license:

Local health dept.,  
Durable Med Equip.,  
Independent living ctr.,  
SRS,  
KDHE, Attendant Care,  
**Hospice,  
Religious affiliation  
and  
certain individuals or  
organization  
excluded.**  
KSA 65-5101(b), 5102  
and 5112

Add these items  
from KSA 65-  
5112 to the NO  
side.

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# Our chart would now look like this...

Decisions about  
becoming a licensed  
home health agency  
(HHA)

Yes, would require a  
HHA License:

Nursing,  
Phys Therapy,  
Speech therapy,  
Nutrition/Dietary  
Consultation,  
Occupational  
Therapy, respiratory  
therapy, home  
health aide,  
attendant care  
services or medical  
social services.  
KSA 65-5101 (c)

No, would not require a  
HHA license:

Local health dept.,  
Durable Med Equip.,  
Independent living ctr.,  
SRS,  
KDHE,  
Hospice, Attendant Care,  
Religious affiliation and  
certain individuals or  
organization excluded.  
KSA 65-5101(b), 5102  
and 5112

Yes

Attendant care services  
KSA 65-5101(c)

Attendant care services  
KSA 65-6201

No

***Providers of ONLY attendant care services may choose to be a licensed as a HHA or not.***

A providers decision of licensing or not should not be based on ownership of the HHA by a physician or an RN.

**Attendant care services means** those basic and ancillary services which enable an individual in in-home care live in the individual's home and community rather than in an institution and carry out the functions of daily living, self-care (self directed care) and mobility

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